



STATE MINING AND GEOLOGY BOARD

Surface Mining Standards Committee

Kathy Lund, Chair; Cheryl Bly-Chester; John Lane; Ben Licari

EXECUTIVE OFFICER'S REPORT



For Meeting Date: July 9, 2009

Agenda Item No. 2: Consideration of the State Mining and Geology Board's Reclamation Plan Form Pursuant to Public Resources Code Section 2772(a).

BACKGROUND: The State Mining and Geology Board (SMGB) is the lead agency for 52 surface mining operations. A reclamation plan is required to be filed with the Lead Agency under the Surface Mining and Reclamation Act of 1975 (SMARA) on a form provided by the Lead Agency pursuant to Public Resources Code (PRC) Section 2772(a). The Surface Mining Standards Committee (Committee) is considering recommending to the whole SMGB approval of such a form upon review and receipt of comments from stakeholders and other interested parties.

REGULATORY ASPECTS: SMARA provides a requirement for each Lead Agency to develop a reclamation plan form. Pursuant to PRC Section 2772(a):

The reclamation plan shall be filed with the lead agency, on a form provided by the lead agency, by any person who owns, leases, or otherwise controls or operates on all, or any portion of any, mined lands, and who plans to conduct surface mining operations on the lands.

DISCUSSION: The SMGB has previously developed a Reclamation Plan Form to assist smaller-scale mine operators in environmentally nonsensitive areas to conform to the requirements of SMARA and the SMGB's regulations. However, no form is available for moderate to large-scale mine operators when the SMGB is fulfilling certain SMARA lead agency obligations and responsibilities. Development of a Reclamation Plan Form serves several purposes including:

1. **Ensure consistency:** Plans submitted to the SMGB are currently received in various formats based on the preference of the author(s) who prepares the documents. Development of a form or format facilitates consistency, which will assist both the individual(s) preparing the plan and the reviewer.
2. **Encourage completeness:** Guidance for completion of an adequate Reclamation Plan is vague in both the statute and regulations. In



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addition, Reclamation Plans received by the SMGB, and commonly received by the Department of Conservation's Office of Mine Reclamation (OMR), commonly lack specific information. Providing a clear and concise form or format of the required elements will encourage the preparation of plans that include all required information.

3. Facilitate review: An approved Reclamation Plan Form or format will facilitate review by the SMGB and OMR on behalf of the Director of the Department of Conservation pursuant to SMARA PRC Section 2772(a) by standardizing the plan contents. Currently, there is no readily available standard checklist or other guidance that addresses form structure and minimum standards, in a user friendly format.
4. Improve quality: The overall quality of reclamation plans received by the SMGB would be improved by adopting minimum standards and guidelines. For example, maps are occasionally submitted with plans in a variety of scales, depicting various features, with no consistent legend or orientation requirements. A form or format would lead to maps being drawn to an appropriate scale depicting pertinent information, with a standardized legend.

The proposed Reclamation Plan Form structurally mimics the SMGB's Interim Management Plan (IMP) Form previously approved by the SMGB, and is divided into three parts: introductory information, the standard form to be completed, and instructions for completion of various elements of the form.

CURRENT ISSUES: In development of a Reclamation Form to be used by the SMGB when fulfilling certain lead agency obligations and responsibilities pursuant to SMARA, draft versions have been made available on the SMGB's website, and several meetings have been held between representatives of OMR, the California Construction and Industrial Materials Association (CalCIMA), and other stakeholders. Prior to completing the form, several issues have been identified which require guidance from the Committee. These issues are divided into two general categories:

- Inclusion of Various Supporting Documents: The form includes a request (if available and applicable) for a Storm Water Pollution and Prevention Plan (SWPPP), Stream Bed Alteration Agreement, Waste Discharge Requirements, and closure plans for tailings and mine waste units mandated by the Regional Water Quality Control Boards.



CalCIMA states that these potential attachments represent permits mine operators may be required to obtain from other state or federal agencies. The SMGB does not typically inspect for compliance with these permits as they are under the jurisdictional authority of other regulatory entities. However, should the Reclamation Plan submitter include the requirements of these permits within the reclamation plan, then the SMGB would inspect for compliance with such requirements. Operators should note that environmental requirements tend to change over time and the inclusion of environmental permit requirements within the reclamation plan could force amendments to the plan as these standards change, if they are specifically incorporated within the plan.

Recommendation for Inclusion of Select Maps and Cross-Sections: The form directs submitters to include engineered, scaled topographic maps, and other maps that must be stamped and signed by a registered professional licensed to do business in California, where required by California Statute or Regulations. In addition, the proposed Reclamation Plan Form includes a request for a cross section showing the anticipated maximum depth of mining in relation to the water table, and cross section locations must be shown on the mine plan map.

CalCIMA has commented that it is very common for operators to use USGS topographic maps to meet the SMARA requirement for a pre-mining topographic map. The requirement that such maps be stamped by an engineer is inappropriate as it is for the location/access map. Maps the operator has had created by appropriately licensed professionals should, of course, be prepared in accordance with appropriate law and have such stamps. CalCIMA also notes that a mine plan map is not required under SMARA and a narrative can just as easily describe the water table in relation to maximum depth. CalCIMA did not disagree that in certain site specific circumstances such a cross section may be needed, but it is certainly not required in every situation.

EXECUTIVE OFFICER'S RECOMMENDATION: The Reclamation Plan form has been distributed and made available for public review and comment on several occasions, and all comments received have been considered and incorporated, as appropriate. In addition, OMR staff has reviewed the form on several occasions and their comments have also been incorporated. The elements contained on the current version of the Reclamation Plan Form reflect those required pursuant to SMARA and the SMGB's regulations, and meet the minimum requirements of SMARA.



SUGGESTED MOTION LANGUAGE:

To recommend finalization of the Reclamation Plan Form for the whole Board's consideration:

Madam Chairperson, in light of the information before the Surface Mining Standards Committee, I move that the Reclamation Plan Form has been prepared in accordance with SMARA and the Board's regulations, and that the form be finalized and provided to the whole Board for approval consideration at its next scheduled meeting.

Respectfully submitted:

Stephen M. Testa
Executive Officer

